

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

Margaret Kay Zambron,	)	
	)	
Plaintiff,	)	
	)	No. 7:10-cv-167
vs.	)	
	)	
Weber & Olcese, PLC,	)	<b>JURY DEMAND ENDORSED HEREON</b>
	)	
Defendant.	)	

**COMPLAINT**

NOW COMES the Plaintiff, MARGARET KAY ZAMBRON, by and through her attorney, M. LYNETTE HARTSELL, and for her Complaint against the Defendant, WEBER & OLCESE, PLC, Plaintiff alleges and states as follows:

**PRELIMINARY STATEMENT**

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereinafter the “FDCPA”), 15 U.S.C. § 1692, *et seq.*, and the North Carolina Debt Collection Act (NCDCA), N.C. Gen. Stat. § 75-50, *et seq.*

**JURISDICTION AND VENUE**

2. Jurisdiction arises under the FDCPA, 15 U.S.C. § 1692, *et seq.* Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b), as a substantial part of the events and omissions giving rise to the claim occurred within this District.

**PARTIES**

3. Plaintiff is an individual who was at all relevant times residing in Jacksonville, North Carolina.

4. Plaintiff is a “consumer” as defined in 15 U.S.C. § 1692a(3) and N.C. Gen. Stat. § 75-50(1), as she is a natural person allegedly obligated to pay a debt.

5. At all relevant times, Defendant acted as a “debt collector” within the meaning of 15 U.S.C. § 1692a(6) and N.C. Gen. Stat. § 58-70-15, in that it held itself out to be a company collecting a consumer debt allegedly owed by Plaintiff.

6. On information and belief, Defendant is a professional limited liability company of the State of Michigan, which is not licensed to do business in North Carolina and which has its principal place of business in Troy, Michigan.

### **COUNT I**

#### **(Violation of the Fair Debt Collection Practices Act)**

7. During or about the latter half of 2009, Defendant’s representatives and/or employees, including, but not limited to Will (last name unknown) and Mr. Michaels (first name unknown), began contacting Plaintiff by telephone in attempts to collect a debt allegedly owed by Plaintiff’s nephew, Jason Wasserman (“Wasserman”).

8. Some of the aforementioned telephone calls occurred multiple times per day.

9. On multiple occasions during the aforementioned telephone calls, Plaintiff advised Defendant’s representatives and/or employees that Wasserman did not live with her, and further, that he was at that time in Afghanistan.

10. On or about March 7, 2010, Plaintiff sent an email message to Defendant, reiterating that her nephew was in Afghanistan, denying that she owed the debt and requesting that Defendant cease all future communications with her. A copy of said email message is attached hereto as Exhibit 1.

11. However, the telephone calls from Defendant's representatives and/or employees continued despite Plaintiff's request as outlined above.

12. In its attempts to collect the aforementioned alleged debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Communicating with a person other than the consumer more than once in connection with the collection of the alleged debt, in violation of 15 U.S.C. § 1692b(3);
- b. Continuing to communicate with Plaintiff after Defendant was notified in writing that she refused to pay the debt and that she wished for Defendant to cease further communication with her, in violation of 15 U.S.C. § 1692c(c);
- c. Causing a telephone to ring or engaging Plaintiff in conversation repeatedly and continuously with the intent to annoy, abuse or harass, in violation of 15 U.S.C. § 1692d(5);
- d. Using an unfair or unconscionable means to attempt to collect a debt, in violation of 15 U.S.C. § 1692f; and
- e. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

13. As a result of Defendant's violations as aforesaid, Plaintiff has suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, MARGARET KAY ZAMBRON, respectfully prays for a judgment against Defendant as follows:

- a. Statutory damages of \$1,000.00 for each violation of the FDCPA;

- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

## **COUNT II**

(Violation of the North Carolina Debt Collection Act)

14. Plaintiff hereby adopts, re-alleges and incorporates by reference all allegations set forth above as though fully rewritten here.

15. In its attempts to collect the aforementioned alleged debt, Defendant violated the NCDCA in one or more of the following ways:

- a. Causing a telephone to ring or engaging Plaintiff in conversation repeatedly and continuously with the intent to annoy, abuse or harass, in violation of N.C. Gen. Stat. § 75-52(3); and
- b. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the NCDCA.

16. As a result of Defendant's violations as aforesaid, Plaintiff has suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, MARGARET KAY ZAMBRON, respectfully prays for a judgment against Defendant as follows:

- a. Statutory damages of \$4,000.00 for each violation of the NCDCA;
- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

**JURY DEMAND**

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, except for any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of her claims in this action.

Respectfully Submitted,

/s/ M. Lynette Hartsell  
M. Lynette Hartsell (9845)  
Attorney for Plaintiff  
1010 Lakeview Drive  
Cedar Grove, NC 27231  
(888) 493-0770, ext. 305 (phone)  
(866) 551-7791 (facsimile)  
lynette@luxenburglevin.com